

To:

6th March 2018

Director General of Foreign Trade,
Udyog Bhawan,
H-Wing, Gate No-02,
Maulana Azad Road,
New Delhi - 110001

Subject: Complaint on import of GM corn, GM papaya, GM squash, GM sugar beet and GM canola seeds and GM foods illegally, in violation of DGFT Notification – urgent action demanded

Dear Madam/Sir,

Greetings! We draw your attention to the fact that large scale illegal imports of GM canola and corn seeds are happening into India, in violation of the DGFT Notification No. 2 (RE-2006)/2004-2009, dated 7th April 2006. This is to lodge a formal complaint about the same, and demand that immediate investigation be initiated into this matter, and prosecution initiated for all violations found.

[As per the above mentioned notification](#) of the Department of Commerce in the Ministry of Commerce and Industry, the following has been laid down as Condition No. 18 of Chapter 1 A (General Notes Regarding Import Policy) of the ITC(HS) Classifications of Export and Import Items, 2004-2009 notified vide Notification No. 2 dated 7.4.2006:

“18. Import of Genetically Modified Food, Feed, Genetically Modified Organisms (GMOs) and Living Modified Organisms (LMOs) will be subject to the following conditions:

- (a) The import of GMOs/LMOs for the purpose of (i) R&D; (ii) Food; (iii) Feed; (iv) Processing in Bulk and (v) For Environment release will be governed by the provisions of the Environment Protection Act 1986 and Rules 1989.
- (b) The import of any Food, Feed, raw or processed or any ingredient of food, food additives or any food product that contains GM material and is being used either for industrial production, environmental release or field application **will be allowed only with the approval of the Genetic Engineering Approval Committee** (GEAC, which has been subsequently renamed as Genetic Engineering Appraisal Committee).
- (c) Institutes/Companies who wish to to import Genetically Modified material for R&D purposes will submit their proposal to the Review Committee for Genetic Modification (RCGM) under the Department of Bio Technology. In case the companies/institutes use these Genetically Modified material for commercial purposes, approval of GEAC is also required.
- (d) **At the time of import, all consignments containing products which have been subjected to Genetic Modification will carry a declaration stating that the product is Genetically Modified.** In case a consignment does not carry such a declaration and is later found to contain Genetically Modified material, the importer is liable to penal action under the Foreign Trade (Development and Regulation) Act, 1992”.

This is reiterated in the [General Notes regarding Import Policy, 2012](#). Please note that the notification pertains to not just living modified organisms, but also GM foods and feed, all of which need permission from other regulators to be imported in the first instance (GEAC in the case of GMOs and FSSAI in the case of foods which are not living modified organisms).

While this is so, recent developments compel us to write to you and lodge a complaint, for failure of implementation of the regulation in the Ministry.

Data available in the public domain shows that some traders in India are importing seeds from countries which grow GM canola, GM squash, GM sugar beet, GM papaya and GM corn for sowing. Please note that we are talking about Seed, which is a Living Organism, and if transgenic, a Living Modified Organism, which should not have any environmental release in India without adequate testing and clearance from regulators, if found safe. Further, such an import should comply with the Cartagena Biosafety Protocol, for inter-country movement of Living Modified Organisms.

We have been importing **canola seeds** (HS code 12059000) for sowing from US and Australia, for instance. Of the canola grown in these 2 countries US grows more than **90% GM canola** and Australia grows more than **20% GM canola**. In 2014, more than 1,00,000 kgs of canola seeds for sowing were imported through Nhava Sheva sea port from these countries. Data in public domain also shows that that these canola seeds were imported atleast until 2016 if not beyond.

Similarly we have also been importing **corn seeds** (HS code 10051000) for sowing from US, Chile, Philippines, Argentina and Brazil over the last 19 years going way back to 1999-2000. Argentina and US are known to have more than **90% of their corn as GM corn** whereas Brazil is known to have more than **88% of corn from GM corn**. Spain and Philippines are known be growing more than **35% and 65% of their corn respectively as GM corn** whereas Chile is known to have more than **5% of its corn as genetically modified**. In 2015 and 2016, publically available data shows that we imported corn seeds for sowing from atleast Delhi and Mumbai air cargo respectively.

Also we have also been importing **sugar beet seeds** (HS code 12091000) for sowing from US, for more than 10 years. US is known to have more than **90% of its sugar beet as GM sugar beet**.

We have also been importing **papaya seeds** from China. China is known to grow GM papaya.

We have been importing **squash seeds** from US. US is known to grow GM squash.

The following evidence is what we present to you, to show that LMOs in the form of GM corn, GM sugar beet, GM squash, GM papaya and GM canola seeds are coming into India, with the regulators remaining unaware, or inactive, failing in the discharge of their responsibility. This includes the DGFT of course.

- 1) Data showing imports of papaya, squash, canola and corn seeds as mentioned above
<https://www.zauba.com/import-/hs-code-10051000-hs-code.html>
<https://www.zauba.com/import-canola-seed-sowing-hs-code.html>
<https://www.zauba.com/import-papaya+seed-hs-code.html>
<https://www.zauba.com/import-squash+seeds/hs-code-12099190/fp-united%20states/p-1-hs-code.html>
- 2) DGFT's own data shows import of corn seeds, sugar beet from GM corn growing countries, sugar beet seeds from US a GM sugar beet growing country and canola

seeds from GM canola growing countries (sample data extract attached here). Data can be found from this link too

<http://commerce.nic.in/eidb/icomcntq.asp>

GEAC HAS NOT APPROVED ANY IMPORTS OF LIVING MODIFIED ORGANISMS of canola, papaya, squash, sugar beet or corn, of which these seeds are.

You would remember that this is in addition to our earlier complaint (on both email and in letter) to you on GM soy seeds being imported from other countries dated 31st January .

It is also suspected that several consignments from GM crop producing countries are transferred mid-sea, and hence, the source and country of origin are obfuscated as well. Hence, officially stated source of origin of these ships would not even be a clear indicator of the products being GM or non-GMO.

Further, we also have pictorial evidence of many GM foods appearing in our supermarket shelves and entering our food chain. Prima facie, we believe these foods to be GM since they are being imported in a packaged form from countries which grow GM versions of the ingredients used, without any segregation or labelling practised. We attach some of the photos here. An RTI application to the DGFT seeking information on the declarations made by GMO/GM food importers so far drew a blank, and the application was forwarded to numerous other public authorities including ones in Ministry of Finance, rather than provide us with data that tells us that the regulation is being complied with, as far as DGFT is concerned. In any case, even if a declaration is filed with your office, all these imports are illegal in that they have not been cleared by concerned Indian regulators.

Based on all the above, we write to you to accept and take note of our complaint on apparent violations of DGFT notification happening, in addition to regulatory norms of GEAC, and the Plant Quarantine Rules. We request you to appreciate the gravity of the matter, given that citizen health and environmental biosafety depend on the DGFT able to perform its regulatory responsibility diligently and completely. We demand that the DGFT immediately investigate into the matter, to protect citizens' interest in this matter, and fix liability on contraveners of the law urgently.

Sincerely,



Kavitha Kuruganti (Contact - 8880067772)

(Address - #302, Santhome Apartments, 33/1, 1st A Cross, Indiranagar I Stage, Bengaluru, 560038)

For Coalition for GM-Free India

Annexure : RTI applications filed with the DGFT:

Text of application for RTI application number DGOFT/R/2017/50183, dated 3/10/2017:

“Please provide me with copies of Declarations made by GM soy oil importers, GM rapeseed/canola oil importers and packaged food importers bringing in foods from the USA and Canada containing maize, soy, canola and cotton ingredients, in compliance with the 2006 Notification of Dept of Commerce, dated 7th April 2006, as per 4 (d) of Notification No.2 (RE-2006) / 2004-2009. Please share copies of all declarations made from the date of the notification till the date of this RTI application in October 2017.”

Text of application for RTI application number DGOFT/R/2017/50232, dated 12/12/2017:

“Please provide me with the following information, being applied for following due procedure under RTI Act.

1. Information on the different import consignments that have been declared as containing GM materials (genetically modified or transgenic) from the time a DGFT notification was issued asking for all such consignments to be declared as such. Please provide this information year wise, with applicant, crop or commodity, source country, details of the transgenic event and quantity allowed of each such transgenic or GM import consignment.
2. Information on how DGFT authorities decide on which such consignments to allow.”